

1 for essentially the same reasons, a claim for damages based on unconstitutional
2 conviction would have to be dismissed without prejudice as well. See Heck v.
3 Humphrey, 512 U.S. 477, 486-487 (1994) (claim for damages for unlawful
4 incarceration or sentence is not cognizable under § 1983 until the conviction or
5 sentence at issue is invalidated).

6 For the foregoing reasons, the complaint is DISMISSED without prejudice
7 under the authority of 28 U.S.C. § 1915A(b).

8 The clerk shall enter judgment in accordance with this order, terminate all
9 pending motions as moot, and close the file.

10 SO ORDERED.

11 DATED: June 13, 2008

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14 CHARLES R. BREYER
15 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GABRIEL BLACK,

Plaintiff,

v.

STATE OF CALIFORNIA et al,

Defendant.

Case Number: CV08-02893 CRB

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 16, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Gabriel Black V-65533
MCSP
A-5-143
P.O. Box 409020
Ione, CA 95640

Dated: June 16, 2008

Richard W. Wieking, Clerk
By: Barbara Espinoza, Deputy Clerk